



CPAC Newsletter

July 2003



Modern Downtime



MODERN was down for two weeks in June due to the Centralization of the Army regional databases. MODERN will be down again for two weeks in July for the transition to the new version of Oracle.

Personnel actions may not be initiated or processed in the automated system during the downtime. To make sure that personnel actions effective during this transition period are processed in a timely manner, managers are encouraged to submit actions for the affected time period as early as possible (see milestone timeline below).

Please note that during this transition period, the CPOC will continue to announce vacancies, issue referrals, and perform other work to minimize impact on employees.

Army Regional Tools (ART) and the Civilian Servicing Unit (CSU) Application will continue to be available to all users during the MODERN downtime, but the data in ART/CSU will only be current as of 18 JUL 03.

MILESTONE/TIMELINE:

3 July -- Deadline for submitting pay actions to CPOC to be effective on 13 JUL or 27 JUL

10 July -- Deadline for submitting non-pay action to CPOC to be effective on 13 JUL or 27 JUL

11 July -- Deadline for submitting reorganization paperwork to CPAC for Table 30/org hierarchy changes

18 July -- COB, begin MODERN downtime for transition to new version of Oracle

1 Aug -- End of MODERN downtime

On-Line Access to DD214s

The National Personnel Records Center has provided the following website for veterans to access their DD-214 online:
<http://vetrecs.archives.gov>. This may be particularly helpful when a veteran needs a copy of his DD-214 for employment purposes. Please see the details below. CPOCMA point of contact is Lyn Krout, linda.krout@us.army.mil, DSN 458-1755, or commercial 410-306-1755.

NPRC initiates online records request procedures:

The National Personnel Records Center is working to make it easier for veterans with computers and Internet access to obtain copies of documents from their military files.

Military veterans and the next of kin of deceased former military members may now use a new online military personnel records system to request documents. Other individuals with a need for documents must still complete the Standard Form 180 which can be downloaded from the online web site. The new web-based application was designed to provide better service on these requests by eliminating the records center's mailroom processing time. Also, because the requester will be asked to supply all information essential for NPRC to process the request, delays that normally occur when NPRC has to ask veterans for additional information will be minimized. Veterans and next of kin may access this application at <http://vetrecs.archives.gov>. Please note there is no requirement to type "www" in front of the web address.

Flexible Spending Accounts

Have you heard about the Federal Flexible Spending Account Program for 2003? This is the second Federal Flexible Benefits Plan (FedFlex) benefit for Federal employees; the first was the Premium Conversion that was implemented in October of 2000.

This new program allows you to set aside pre-tax money for qualifying health care and/or dependent care expenses. It is an opportunity for you to save a specific amount of money determined by you in an account that can be used to pay health care or dependent care expenses that meet the criteria. The program has two parts, a Health Care FSA (HCFSA) and a Dependent Care FSA (DCFSA).

Eligibility Requirements:

HCFSA: This program is available to employees that are eligible to elect FEHB. This does not mean you must be currently enrolled, only eligible to make an election.

DCFSA: This program is available to all employees with qualified dependents except employees that are currently serving on temporary appointments with an intermittent work schedule.

Enrollment in the Programs:

The initial Open Season for enrollment in these programs began on May 19th and ends on June 27th. During this period you can enroll by contacting the FSA and completing the enrollment requirements. All monies will be paid by allotments with an anticipated start date of 26 September 2003. Enrollment cannot be made through the ABC-C or your servicing CPOC.

For more information go to www.opm.gov and execute a search by typing FSA in the "search" box. You can also go to the ABC-C website for information.

Voluntary Separation Incentive Pay (VSIP)**What is it?**

VSIPs (also known as buyouts) are lump sum payments of up to \$25,000 paid to encourage permanent employees to resign or retire. Buyouts are targeted at employees in specific grades, series, or locations to help avoid reductions-in-force or minimize involuntary separations due to reduction-in-force (RIF), base closure, transfer of function, reorganization or other similar action. The incentive applies only to voluntary separations (i.e., early retirement, optional retirement and resignation). VSIP can not be used with Discontinued Service Retirements since these retirements are involuntary actions. DOD VSIP authority is established in Title 5, United States Code, Section 5597, Separation Pay. The authority is effective through September 30, 2003 (Section 1103, Public Law 106-398, National Defense Authorization Act for Fiscal Year 2001).

When are buyouts offered?

Generally in DOD, activities must offer buyouts to their employees at least 30 days before they issue RIF notices.

Who is eligible for a buyout?

Employees are eligible for VSIP provided they are (1) U.S. citizens, an exception exists for non-U.S. citizens employed under the Panama Canal Employment System, (2) eligible for either voluntary early retirement, optional retirement or resignation; (3) serving under an appointment without time limitation and (4) have been continuously employed by the Federal Government for at least 12 months. Re-employed annuitants are not eligible for a buyout.

Are employees receiving special salary rates eligible for buyouts?

Yes, employees being paid under special salary rates or employed under a Direct Hire Authority are eligible for buyouts provided an equal number of special salary rate or direct hire positions are eliminated.

Can an employee who declines a TOF receive a VSIP?

Employees who decline an offer of a position due to a Transfer of Function (TOF) are not eligible for a VSIP. The rationale for this determination is that it is contrary to the intent of the law to pay an incentive to an employee to leave Federal service when s/he has declined an offer of continued equivalent employment, even if that employment is outside of the commuting area. Further, an employee who declines to transfer with his/her position as a result of a TOF cannot be offered a VSIP to create a vacancy to place another employee scheduled for involuntary separation who is willing to move with the transferring function. The rationale for this determination is that once an employee declines an offer to transfer, either through the canvass or TOF letter, the employee relinquishes ownership over that position and the Army is free to offer it to an employee willing to transfer to the new duty location. The employee declining the transfer will be separated through adverse action, not RIF procedures.

Can any eligible employee receive a VSIP?

VSIP is not automatic for employees. Approval of VSIP applications is contingent upon management's ability to identify how civilian reductions can be minimized and cost savings achieved through the use of VSIP authority. These decisions will be made locally. Approval of an incentive is limited to situations that clearly show it is cost effective and will avoid or minimize the need for involuntary separations related to workforce reductions.

What conditions must the permanent employee meet to retire/resign?

- a. Optional Retirement: Employees are eligible for optional retirement if they (1) have at least 30 years of service at age 55 (or Minimum Retirement Age, MRA, if the employee is covered by the Federal Employee Retirement System (FERS)); (2) have at least 20 years of service at age 60; or (3) have at least 5 years of service at age 62. Additionally, FERS employees are eligible to retire if they have at least 10 years of service and are at or above their MRA. FERS employees please note that the MRA is never less than age 55.
- b. Voluntary Early Retirement (VERA): To be eligible for voluntary early retirement, an employee must have 20 years of service at age 50 or 25 years of service at any age. For employees covered by the Civil Service Retirement System (CSRS), there is a 2 percent reduction in their annuity for each year they are under age 55 at the time of retirement. This annuity reduction is permanent and will not increase when the CSRS annuitant reaches age 55. FERS employees are not subject to this 2 percent reduction in annuity. NOTE: VERA must be specifically authorized for use. Employees who meet the above criteria are not eligible to retire under a VERA unless it has been authorized for their Reduction in Force (RIF) situation.
- c. Voluntary Resignation: An employee, regardless of the retirement system under which he/she is covered, may resign at any time.

What happens if the number of applicants exceeds buyout offers?

If the number of eligible VSIP applicants exceeds the number of offers available, applications will be grouped by occupations and within each group, offers will be made in seniority order using the service computation date for leave. Veteran's preference and tenure are not considered in this process.

Who approves VSIP?

The Assistant Secretary of the Army (Manpower and Reserve Affairs) redelegated VSIP authority (excluding Senior Executive Service positions) to Army Major Commanders and Heads or Independent Reporting Activities. This authority may be redelegated to the lowest practical level (Reference DAPE-CPE message, 171955Z Feb 94, subj: Delegation of Authority - RIF and VSIP located at <http://cpol.army.mil/library/armyregs/memos/01860153.html>)

What is the incentive amount?

The separation incentive is the lesser of:

- a. \$25,000.00 OR
- b. An amount equal to the payment you would be entitled to receive under the severance pay formula; i.e., (1) one week's pay at the rate of basic pay received immediately before separation for each year of civilian service up to and including 10 years, and 2 weeks basic pay at the rate for each year of civilian service beyond 10 years, and (2) an age adjustment allowance for each year by which your age exceed 40 years, at the time of separation. Incentive pay cannot exceed 1 year's salary at the rate of pay immediately preceding separation.

Additional information is found in the Field Advisory Service Reference Guide 824-PT-24, "Calculating Voluntary Separation Incentive Pay (VSIP)".

How is the separation incentive paid?

It is paid in a lump sum at the time of separation (less FICA/Medicare taxes, federal income tax withholding, and applicable state and local taxes), or it may be paid in installments.

Are there any VSIP costs to the Army other than the incentive amount?

Yes, under Public Law 105-85, November 18, 1997, the Army must pay 15% of the final annual basic pay for each VSIP paid on or after October 1, 1997 to the Civil Service Retirement Disability Fund (CSRD). This applies to an employee covered by the Civilian Service Retirement System (CSRS) or Federal Employees Retirement System (FERS), regardless of the type of buyout separation.

Are there any restrictions associated with the receipt of VSIP?

Yes, there are restrictions on re-employment and requirements to repay the VSIP if re-employed.

Since VSIP reemployment and repayment provisions for Department of Defense employees have been affected by several different laws and regulations, the DOD Field Advisory Services Office has provided the following guidance:

- Former Federal employees who return to work for the government after receiving a VSIP may be required to repay an amount equal to the VSIP amount received, including Federal taxes that were withheld. These VSIP repayment requirements have caused some confusion.
- When DOD began its VSIP program in 1993, DOD policy (which remains in effect today) prohibited the reemployment of VSIP takers within DOD for one year after separation, unless a waiver was granted at the Component Assistant Secretary level; however repayment was not an issue. Beginning March 30, 1994, with the passage of the Federal Workforce Restructuring Act of 1994, VSIP recipients who separated on or after the date of its passage were required to pay back the incentive if re-employed anywhere in the Federal Government within five years of their separation. For the Executive Branch, the Office of Personnel Management (OPM) has the authority to grant waivers to the repayment requirement, but only under very limited conditions.

- Both the DOD one-year reemployment provision and the repayment legislation use a very broad definition of reemployment. Any kind of appointment is covered, including temporary, term, and seasonal, unless working without pay (the DOD Authorization Act for FY97 allows DOD employees to return to Federal employment within the five-year period without repayment if employed in a non-compensated category). The DOD one-year reemployment prohibition also covers personal services contracts. The FY 2001 National Defense Authorization Act, Section 1151, extends the repayment requirement to DOD incentive takers who are re-employed on personal services contracts. A definition of personal services contracts follows at the end of this section.

- Simply stated:

- A DOD employee who took VSIP prior to March 30, 1994, was not allowed by DOD policy to return to work in DOD for one year after separation (including on a personal services contract) unless a waiver was granted by the Component Assistant Secretary level. This reemployment prohibition did not apply to DOD employees returning to work in any other Federal agency and there were no repayment requirements. (Source - Civilian Assistance and Re-Employment (CARE) Program Implementing Instructions, June 1, 1993).

- An employee who takes a DOD or other Agency VSIP on or after March 30, 1994, must repay the incentive if he or she returns to the Federal Government as an employee, or under a personal services contract, within five years unless a waiver is granted by the applicable waiver granting authority. For the Executive Branch, the waiver granting authority is OPM. (Source - Federal Workforce Restructuring Act of 1994).

- A DOD employee who takes a VSIP on or after March 30, 1994, is not allowed by DOD policy to return to DOD for one year after separation even if they repay their incentive unless a waiver is granted by the applicable Component Assistant Secretary. (Source - Federal Workforce Restructuring Act of 1994 and CARE Program Implementing Instructions, June 1, 1993).

- A DOD incentive taker may return to non-compensated Federal employment on or after September 23, 1996, without repaying the incentive, if the appointing official waives the repayment requirement. However, the one-year reemployment prohibition in DOD still applies unless there is a waiver at the Component Assistant Secretary level. (Source - The DOD Authorization Act for FY97 and CARE Program Implementing Instructions). Servicing Civilian Personnel Advisory Centers (CPACs) are required to inform prospective VSIP takers of these reemployment limitations and repayment requirements. CPACs must also inform incentive takers of the repayment requirements before they are offered paid employment in DOD. If a VSIP taker is re-employed, the Civilian Personnel Operations Center must contact its respective payroll (DFAS) office so that repayment procedures can be initiated. This requirement applies even if the VSIP was paid by another Federal agency; DOD is still responsible for collecting the repayment and forwarding it to the appropriate Federal Agency. Conversely, other Federal agencies are responsible for collecting repayments and forwarding them to DOD when they reemploy our former incentive takers.

What constitutes a personal services contract for repayment purposes?

The following is an excerpt from Title 48, Code of Federal Regulations, Section 37.104 that defines and describes personal services contracts.

(a) A personal services contract is characterized by the employer-employee relationship it creates between the Government and the contractor's personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by

contract rather than by direct hire, circumvents those laws unless Congress has specifically authorized acquisition of the services by contract.

(b) Agencies shall not award personal services contracts unless specifically authorized by statute (e.g., 5 U.S.C. 3109) to do so.

(c)(1) An employer-employee relationship under a service contract occurs when, as a result of

(i) the contract's terms or

(ii) the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee. However, giving an order for a specific article or service, with the right to reject the finished product or result, is not the type of supervision or control that converts an individual who is an independent contractor (such as a contractor employee) into a Government employee.

(2) Each contract arrangement must be judged in the light of its own facts and circumstances, the key question always being: Will the Government exercise relatively continuous supervision and control over the contractor personnel performing the contract? The sporadic, unauthorized supervision of only one of a large number of contractor employees might reasonably be considered not relevant, while relatively continuous Government supervision of a substantial number of contractor employees would have to be taken strongly into account.

(d) The following descriptive elements should be used as a guide in assessing whether or not a proposed contract is personal in nature:

(1) Performance on site.

(2) Principal tools and equipment furnished by the Government.

(3) Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.

(4) Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel.

(5) The need for the type of service provided can reasonably be expected to last beyond one year.

(6) The inherent nature of the service, or the manner in which it is provided reasonably requires directly or indirectly, Government direction or supervision of contractor employees in order to:

(i) Adequately protect the Government's interest;

(ii) Retain control of the function involved; or

(iii) Retain full personal responsibility for the function supported in a duly authorized Federal officer or employee.

(e) When specific statutory authority for a personal service contract is cited, obtain the review and opinion of legal counsel.

(f) Personal services contracts for the services of individual experts or consultants are limited by the Classification Act. In addition, the Office of Personnel Management has established requirements which apply in acquiring the personal services of experts or consultants in this manner (e.g., benefits, taxes, conflicts of interest). Therefore, the contracting officer shall effect necessary coordination with the cognizant civilian personnel office.

Veteran's Recruitment Appointment (Formerly Veteran's Readjustment Appointment)

On November 7, 2002, Congress passed the Jobs for Veterans Act (Public Law 107-288). The act makes significant changes to the Veterans Readjustment Act, to include changing the title of the Act to "Veterans' Recruitment Appointment" (VRA). **The changes were effective immediately upon enactment of the law.**

PLEASE NOTE: The public law changes the VRA provisions found in 38 USC 4214. Although there has as yet been no change to 5 CFR Part 307, Veterans' Readjustment Appointments, the CFR language stems directly from 38 USC 4214. Therefore, any change to title 38 immediately affects the CFR provisions. Until 5 CFR is updated, you should use 38 USC 4214 as the governing reference for VRA.

Under the new law, the following veterans are eligible for a non-competitive VRA appointment:

- Disabled veterans;
- Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized;
- Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal (AFSM) was awarded; and
- Recently separated veterans. Recently separated veterans are defined as those who have separated from active service within the last three years.

These provisions are a substantial change from the previous language.

- They provide additional flexibility by eliminating all time restrictions on appointments for veterans in the first three categories, i.e., disabled veterans and those with a campaign badge or AFSM. This means that individuals in the first three categories may be appointed or converted to a VRA appointment without regard to any time limit.
- Length of service requirements have been eliminated for all categories of veterans.
- On the other hand, veterans who are not disabled and who do not have a campaign badge or AFSM may only be appointed within the first three years after their most recent separation. This provision not only affects individuals to whom you wish to make an initial appointment, but also affects current VRA appointees whom you may wish to convert to a new appointment. For example- you appoint someone who is eligible only as a "recently separated veteran" 2 ½ years after separation. This individual may not be converted to a new VRA appointment once an additional six months have passed. Because of this, many individuals currently on the roles under VRA appointments may well not be eligible under the new criteria. Such individuals **are**, however, continued in their current VRA appointments and are converted to career/career-conditional appointment at the appropriate time.

Unlike the previous VRA provisions, the new language does not specifically include the provision that the veteran must have been "released from active duty under conditions other than dishonorable." Based on the most recent guidance we have received, this should NOT be interpreted to mean that dishonorably discharged veterans are eligible for VRA appointments. Under title 38, the basic definition of a veteran is someone who has "other than a dishonorable discharge." Therefore, the reasonable conclusion is that

the removal of the discharge language from the VRA provisions is an effort to remove what amounts to a redundancy, rather than a change in requirements.

Other aspects of the VRA remain unchanged. As in the past, the following provisions apply:

- The maximum grade level at which appointments may be made is GS-11;
- Veterans must be “qualified,” i.e., able to perform the essential functions of the position with or without reasonable accommodation for a disability;
- Veterans with less than 15 years of education must still receive training or education; and
- After two years of successful employment, appointments must be converted to career conditional.

The “VRA Frequently Asked Questions” information previously under the Staffing Advisory Section on the CPMS website has been deleted for revision, and will re-appear when all appropriate changes have been made.

Federal Employee Survey Shows Some Satisfaction, Some Dissatisfaction

The Office of Personnel Management recently released the results of the largest-ever federal employee satisfaction survey, with about 100,000 current federal employees responding out of the 200,000 individuals who were sent surveys by OPM.

The 2002 Federal Human Capital Survey was conducted between May and August 2002, and sought federal workers' views about topics such as workforce management, leadership, pay, performance management, employee development issues and the work environment.

The survey found that 63.8 percent of federal employees are satisfied with their pay, and about 60 percent rated their pay as good or very good. These figures contrast with the general notion that federal employees are unsatisfied with their pay.

Federal employees also rated their work highly. About 91 percent responded that they view their work as important. Another 89 percent believe that their work is important to the mission of their agency. About 82 percent of respondents said that they like the work they do.

On the other hand, federal employees are not satisfied with the way their agencies handle poor performers. Only half of the respondents believe that poor performers are dealt with, and 45 percent feel that the awards program is effective. About 40 percent feel that federal leaders motivate their employees. Federal managers were also rated low in areas such as being receptive to change, maintaining high standards of honesty and integrity, and resolving workplace disputes fairly.

Non-Appropriated Fund Vacancies

Child & Youth Program Assistant - Flex position, Child Development Center, \$9.24 per hour

Food Service Worker – Flex position, NCI Café, \$8.65 per hour